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ABSTRACT

One way to improve topicality debates in CEDA (Cross Examination Debate Association) debate would be to thoroughly study the field contextual meanings of propositional phrases prior to submitting them to a vote. Judges need to reward exemplary arguments and "punish" poor arguments by substantially lowering a team's speaker points for presenting such arguments. Well planned topicality arguments are as research-intensive as disadvantages or counterplans and require the same attention to organization and structure. While not a panacea, a reinvigoration of the importance of topicality argumentation could help restore the balance between impact-oriented arguments and case-specific refutational styles. Absent a plan statement, debate critics could evaluate topicality in the same fashion as "extra-topicality" arguments would be evaluated in a policy format. Topicality standard debates are generally not well presented. Confusion arises in two broad areas concerning topicality standards: the host of arguments that masquerade as "procedural" questions; and arguments that are related to the disposition of topicality claims. The nature of standards debates would be drastically improved if judges refused to consider assertions as arguments absent an explicit application of the "standard" to the opposing interpretation. The topic of a recent CEDA debate (regarding implementation of the Universal Declaration of Human Rights by the United Nations) typifies the difficulties faced when propositions are poorly worded. Neither a true policy proposition, nor an explicit question of value, the proposition lurked in the shadows that separate those two realms. (Fifteen notes are included.) (RS)

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Topicality Standards in CEDA Debate

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The idea for this paper grows out of my own sense of frustration when evaluating topicality arguments in CEDA debates. Much of what I had learned of topicality theory as an NDT participant, judge and coach seemed an uncomfortable fit at best. Three central theoretical questions arose, around which structured this essay: first, how can the nature of topicality arguments in CEDA debates be made less ambiguous -- both theoretically and in actual practice; second, absent a plan, where is a judge to turn for an understanding of the degree to which the affirmative's "interpretation of the resolution" matches resolutional wording as best defined by each advocate; and finally, what is the proper role of standards arguments in assisting a critic in formulating conclusions about topicality? After discussing these three theoretical questions, I will propose a method of adjudicating topicality arguments in non-policy debates.

Reducing Ambiguity in Topicality Debates:

My own, perhaps unrepresentative intuition is that there is widespread dissatisfaction with the way that topicality arguments are currently presented. A close reading of the most recent national judging philosophy booklet, for instance, yields the following general complaints, roughly ranked according to their frequency: (1) Topicality debates are amorphous and confusing; (2) Topicality debates are "generic," and debaters present them as "time-sucks;" (3) Topicality arguments revolve around irrelevant standards debates, and only infrequently mention the substantive violation; and finally, (4) Topicality arguments require an uncomfortably high degree of certainty (due to their all or nothing

nature) and as a consequence, judges are more inclined "give the affirmative lee-way" on topicality. The first three complaints revolve around practical questions and the last is of a theoretical nature.

There can be no solution to the practical limitations of contemporary topicality debates unless and until judges have the courage to reward exemplary arguments and "punish" poor arguments. By punish, I do not mean vote against teams that present "time-waster" topicality arguments. I merely mean to suggest that judges should **substantially lower a team's speaker points for presenting such arguments** and should attribute the diminished points in writing as the consequence of the strategic choices made by the negative team. Simplistic? Yes, but speaker points are one of the few weapons available to judges to discourage poor debate practices without "censoring" the range of options available to teams or "intervening" in the outcomes of the debates for purely stylistic reasons.

Beyond the strategic use of topicality arguments as "time-wasters," much of the ambiguity evident in current practice results from poor planning and argument construction. Topicality arguments are seldom approached with the same rigorous evidentiary and organizational assumptions that guide the development of other arguments. I would argue that well planned topicality arguments are as research intensive as disadvantages or counterplans and require the same attention to organization and structure.

The primary requirement of a good topicality argument is, of

course, a base of well researched definitions. Most judges cringe when they hear an advocate -- on either side of the question, defend topicality with a dictionary definition. Unabridged dictionaries are poor substitutes for specialized dictionaries or encyclopedias -- or more importantly, for definitions drawn directly from the field.

Last spring's proposition is an excellent example of the failure of dictionary definitions to capture the full meaning of the resolution. Ordinary dictionaries defined the primary usage of "implement" as a noun, meaning "an article serving to equip," or as a "tool or utensil."[1] Defining the word as a verb, or conjugating it into "implementation" produced meanings such as, "to give practical effect to and to ensure the actual fulfillment by concrete measures,"[2] and "to provide a definite plan or procedure for ensuring the fulfillment of."[3] Somewhat more specific dictionaries, such as Black's Law Dictionary defined the term exclusively as a noun.[4]

Some would argue that the secondary meanings provided by ordinary dictionaries are sufficient, and capture the intention of

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[1] Webster's Ninth New College Dictionary, (Springfield, MA: Mirriam Webster, 1983), 604. SEE ALSO: The American Heritage Dictionary of the English Language, (Boston, MA: Houghton-Mifflin, 1979), 660.

[2] Webster's, 604.

[3] American Heritage, 660.

[4] Black's Law Dictionary, Special Deluxe Fifth Edition, (St. Paul, MN: West Publishing Company, 1979), 679.

the framers while providing a useful demarcation of affirmative and negative ground. The failure of common dictionaries to provide a primary definition of the term in the same grammatical sense that it appears in the resolution should be a warning that a field contextual definition would provide a more robust understanding of the word or phrase. Dictionaries may be viewed as linguistic histories that rank-order the most common interpretations of words, but do not contemplate the specialized contexts in which such words may be used.

Those who insist that such notions are "elitist" are disingenuous. The so-called "common" definition of a term imposes an absurd and subjective standard with little rationale for its use in a debate context. Debaters and judges are not "ordinary." By virtue of their training and their exposure to specialized forums, they have lexical diversity that is not assumed by the authors of common dictionaries. Moreover, those who insist that it's elitist to employ field contextual definitions should be held to similar argumentative standards elsewhere in the debate. In no other arena would we be comfortable with the lowest common denominator serving as the appropriate barometer for argumentative proof, and my guess is that "common understandings" of forward naval strategy, Korean proliferation or critical legal studies would inspire little confidence the impact scenarios presented by either affirmatives or negatives.

The field from which definitions should be drawn and the nature of what constitutes a definition are debatable questions

best argued within the round. Words and Phrases and Corpus Juris Secundum, for instance, are not dictionaries per se, but rather collections of the various ways that words have been used in court cases. Their relevance is tied to the degree to which the interpretation offered in any given matches the unique facts of the case. Words and Phrases distinguished "implementation" from planning," arguing that implementation activities are, "those ultimate steps that carry out or accomplish the overall activity."[5] **Reed v. Rhodes** (472 F.Supp. 603), the actual case the definition was derived from involved the violation of a Federal order that mandated compliance with a desegregation request. The school district in question sought a stay from execution of the order by arguing that costs associated with "planning" amounted to "due diligence to implement" the Federal court order. Whether the same, or similar circumstances are implicated in the international human rights debate; or whether or not standards drawn from domestic laws and regulations are appropriate benchmark for evaluating possible approaches to the topic remains an open question.

Beyond definitions, every topicality argument should be structured such that it identifies the violation, explains how the affirmative fails to meet the interpretation offered by the negative team, and provides a rationale explaining why the negative interpretation is superior. The rationale could include an application of topicality standards to the definitions offered by

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[5] Words & Phrases, Vol. 20, Cumulative Edition, 1971, (St. Paul, MN: West Publishing Company, 1992 Pocket Addition), 74.

each team, but it should also clearly define the limits of the resolution as viewed through the lens suggested by the violation. In other words, it should establish the range of alternative interpretations that meet the criteria established by the violation.

In addition to outlining the possible ground that could be defended by affirmatives, it is incumbent upon negatives to **prove the topicality** of the cases identified as valid according to their definitions. This step potentially requires negatives to research the topicality of cases that they neither are running on the affirmative nor intend to run. Copying the citations on other teams topicality evidence is a good means of conducting this type of research. Once these steps have been undertaken, the debate can then center around the suitability of each opposing interpretation and the relative ground established by the competing definitions.

A corollary requirement should be imposed upon the affirmative team to present their interpretation of the resolution, and to prove other cases that fall within the interpretation as a means of establishing suitability of ground. By "interpretation," I mean much more than simply a definition, followed by thirty blurbs regarding reasonability, right to define and so forth. Obfuscation of a topicality argument, after all, provides a strategic advantage for the affirmative, and judges should not be surprised when affirmative teams respond in kind.

Possible remedies will be discussed below, along with topicality standard arguments, but a minimum requirement should be

placed upon the affirmative to describe how the negative interpretation violates their counter-standard. This simple step turns most affirmative "counter-standards" from arguments into mere observations -- interesting perhaps, but irrelevant to deciding the issue in question. "We have the right to define," are the first five words in most affirmative responses to topicality arguments. Requiring an explanation of how the violation diminishes the affirmative **right** to define moves the response from argument to observation.

Viewed in this manner, the sentence would become, "We have the right to define and they have said our definition is not valid." Yup. Affirmative's have a "right to define," and negatives have the "right" to challenge their definitions. The "counter-standard" is literally true and also irrelevant as a means of evaluating the argument. Beyond exposing much of what passes for standards debate as a process of mastering the obvious, **requiring** advocates to clash at the level of standards unmasks the dubious intellectual and theoretical grounds upon which the claims rest. I personally tell debaters before the round that their failure to clash at the level of standards will result in my treating their non-clash statements as "non-arguments."

The final hesitation that most judges expressed was that topicality arguments were of such an "absolute" nature that they were inclined to give affirmatives "leeway." Most who expressed this view also added that they found topicality debates confusing and amorphous, and that they disliked hearing them. I find it

difficult to believe that topicality arguments are more involved or confusing that deciding other issues in a debate. The question of topicality is essentially an object-not object question. It is surprising that judges who cringe from sorting out "object-not object" claims profess an expertise, and often a proclivity for evaluating much more complicated link, threshold, uniqueness, time-frame or competition arguments.

A substantial portion of the judges described above also intimated that they were "liberal" on disadvantage burdens, and either hinted or explicitly recommended that negatives focus on competing impacts rather than investing their time in procedural debates. Suggestions such as these have serious implications for how we view debate, and their prevalence suggests a paradigmatic understanding of the role of the debate critic that has not previously been examined.

By encouraging negative strategies that focus upon generic disadvantages, and by further re-inventing the nature of such arguments by promising (implicitly or explicitly) to "look the other way" when evaluating link and uniqueness arguments, proponents of what I shall label the impact-evaluation paradigm fundamentally alter the goals and expectations of academic debate. If, in fact, the role of the affirmative is to link the topic with a large impact, and the burden of the negative is to demonstrate a competing, relatively more substantial counter-impact, then debate resolutions as currently postulated are poor means to that end.

The debate community could explicitly encourage impact-

evaluation as a paradigm by voting for resolutions that require it. Propositions such as, "Resolved: That the environmental risks of overpopulation are less desirable than the risks of wars resulting from resource scarcity," or shorthand resolutions, such as, "Resolved: That nuclear was is less desirable than environmental extinction," are perhaps the ultimate extension of the impact-evaluation paradigm.

Solid impact comparison debates are healthy and should be encouraged. Performed well, such debates enhance all the primary skills associated with inter-collegiate debate (research aptitude, critical thinking abilities, oral advocacy and composition skills, and so forth). When impact-comparison becomes the purpose of debate, however, all of these skills are undermined. When debaters need no longer craft solid link and uniqueness arguments, it seems to me that the activity is no longer useful as a method of teaching argumentation skills.

Insofar as topicality is concerned, the impact-evaluation paradigm functionally means that non-topicality is no longer an "absolute issue" for affirmatives. With an increasing number of judges proclaiming that they essentially will not vote on topicality arguments, the actual risks of selecting a non-topical case plummet. Instead of serving as a boundary to limit ground and presumably center clash around the substantive issues that are unique to a proposition, the topic becomes a springboard from which one launches generic impact debates. As the value of investing research efforts in one area shifts to another, the nature of

issues raised in debates also changes.

The rising torrent of criticism of contemporary practices, and the increasing schism within the CEDA community are perhaps the inevitable outcome of the arrival of the impact-evaluation paradigm. More than ten years ago, NDT debate faced similar problems. As the topics changed from labor unions to military intervention to control of hazardous wastes, the content of debate rounds scarcely changed at all. Writing at that time, Loral Deatherage and Mike Pfau observed:

> There appear to be no limits to affirmative creativity, Hiding behind a shield of "reasonableness," many affirmatives -- without a tinge of remorse or shame -- devise and argue cases seemingly unrelated to the words of the resolution. Negatives, in response to this development, have increasingly abandoned case-specific refutation for the more utilitarian ground of generic counterplans and disadvantages. A myriad of "cures" have been proposed and/or adopted in an effort to ameliorate this problem....all of them are circuitous attempts to do what debaters should be able to do for themselves. The best solution is to arm debaters with the understanding, ability and inclination to effectively argue topicality in the round.[6]

While not a panacea, a re-invigoration of the importance of topicality argumentation could help restore the balance between impact-oriented arguments and case-specific refutational styles.

The Role of The Plan in Topicality Adjudication:

Traditionally, the plan is viewed as the repository of topicality for an affirmative team. It is toward the plan, rather than the advantages, that a critic turns in order to judge the

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[6] Loral Deatherage and Michael Pfau, Arguing Topicality: Perspectives and Techniques, (Kansas City, MO: National Federation of High School Associations, 1985), 5.

acceptability of a resolutional interpretation. For those CEDA teams that expressly include plans as a part of their first affirmative, the evaluation of topicality is a fairly straight-forward question. For teams that do not defend a particular policy proposal, however, the task becomes considerably more complex.

Value propositions function best when appropriate ground is stipulated for each team in the debate. Some propositions do this explicitly. Propositions such as, "Resolved: That individual privacy interests outweigh the First Amendment interests of the media," are exemplar models of value propositions because a tension is explicitly posed between two competing values, and a hierarchical arrangement identified between the two established appropriate ground for each team.

When a value proposition does not function as outlined above, it is incumbent upon the affirmative team to stipulate how their case stands as a rationale for the resolution, and most importantly, to further identify the boundaries of their opponent's argumentative terrain. The topicality debate then would center on the appropriateness of these two judgements.

Absent a plan statement, debate critics could approach the question of topicality in the same fashion as "extra-topicality" arguments would be evaluated in a policy format. The critic would compare the arguments and evidence presented with an eye toward separating those elements of the affirmative "advantage" (the rationale stating the good nature of the value or end state) from those elements that are not topically derived.

As an example, suppose that the proposition stated, "Resolved: That handgun ownership is undesirable." Further suppose that an affirmative team argued that preservation of life was the ultimate criterion and that handguns undermined the preservation of life as a result of accidents, crimes of passion and the use of weapons in self-defense. The affirmative should be held to the value that they presented in the same way that a policy affirmative would be held to their plan. The role of the critic in assessing topicality would be to sift through affirmative claims, and remove those claims that did not justify the resolution as viewed through the affirmative value. If, for instance, the affirmative team also argued that handgun use results in significant non-fatal injury, a critic should ignore those because they do not "filter" through the affirmative value.

The Nature of Topicality Standards:

Topicality standard debates are generally not well presented. Much of the confusion results from a misunderstanding of the role of a topicality standard. Theoretically, a topicality standard is a lens through which the critic is asked to evaluate the definitions. Standards arguments do not concern the nature of topicality as an argument (whether or not it is a voting issue, and so forth), except insofar as such claims implicate the evaluation of definitions.

There are two broad areas where confusion arises concerning topicality standards. The first concerns a host of arguments that masquerade as "procedural" questions. The so-called "critique"

arguments fall within this category. The second category contains arguments that are related to the disposition of topicality claims, but are not arguments per se. Appeals to "reasonability" **as they are most frequently argued** are not genuine standards because they make no suggestion pertaining to the judge's evaluation of competing definitions. They are more appropriately viewed as a class of arguments that dispute the role of topicality in establishing an equitable division of ground, or that challenge the notion that topicality is a voting issue.

Topicality is a procedural question because of the role that topicality plays in dividing ground between opponents. Absent a topic to debate, meaningful discussion cannot take place. The greater the degree to which topicality is marginalized, the greater the tendency of affirmative teams to select cases at the margin and maximize the strategic advantage of surprise. Legitimate topicality arguments are procedural questions because they assert that the affirmative choice falls outside of the range of arguments that the negative team **should have anticipated in advance**. As a theoretical matter, whether or not a negative team had actually prepared to argue an affirmative case falling outside the boundaries of the resolution is irrelevant.

I will not explore the possible judicial or legislative analogies that underlay this theoretical approach except insofar as to argue that questions of ground are not implicated in the perceived size of resolutions (the resolution is so "broad" or "narrow" that it complicates or simplifies the task of research) or

in the perceived desirability of arguments on one side of the question (the resolution is "biased" toward either the affirmative or the negative because it seems harder to defend statements on one side than on the other). The only procedural issue posed by topicality is whether or not the affirmative interpretation falls within the boundaries specified by the resolution.

Recently, a trend has developed wherein a number of other arguments masquerade as procedural questions. "Critique" positions have asserted that the affirmative team must be held responsible for the wording of the resolution, and for the ideology that it represented. Under last spring's proposition, negatives maintained that the affirmative should be held responsible for the propositions failure to include animals in its analysis of rights (anthropomorphism), for the fact that the language of the UDHR itself used male pronouns (sexism), for the ethnocentric nature of the conception of human rights, for the topics tendency toward legal rather than community normative approaches, and for the alleged techno-centrism of human rights enforcement machinery.

This list is not exhaustive, but it captures the general flavor of these arguments. Each of these arguments demanded that an affirmative not only fall within the boundary of the proposition, but also "justify" the resolutional wording against competing alternatives. The issues raised by these "critiques" are not procedural questions. The resolution is nothing more than an arbitrary starting point and a method of dividing ground, and affirmatives are under no theoretical obligation to "justify" the

resolution. To require an affirmative to "justify" the resolution by comparing the choice of propositions against all other competing choices is both arbitrary and unfair.

Theoretically, these arguments are no different than requiring affirmatives to prove, a priori, that the problem area posed by the resolution is the **most important possible area of discussion.** Moreover, there is no limit to the number of possible ways that an affirmative could be required to justify the resolution. If the affirmative team demonstrated that the problem area was significant and worthy of discussion, for instance, there is no theoretical reason why the negative couldn't then require them to "justify" the agent specified against all other competing agents.

There are three legitimate "procedural" questions in a debate round. Two of them are seldom raised. Questions regarding the literal form of the round are procedural (time limits, speaking order, and so forth). Questions pertaining to ethics and the admissibility of evidence are also procedural questions, though they are seldom formally addressed in rounds, as are topicality questions. Nothing beyond these three questions concerns a matter of procedural magnitude.

By elevating "critiques" to the level of procedural questions negative teams impose burdens on their opponents without accepting any corollary burden on themselves. This violates one fundamental tenet of debate theory, and the standard that should be imposed to test the validity of all theoretical arguments, namely: Does the proposed theory constitute an inequitable division of ground? If

so, the theory is invalid.

There are venues for the substantive issues posed by critiques. Agentary challenges are legitimately raised as counterplans, where the standards of competition and non-topicality guard against their abuse and maintain a fair division of ground. Other challenges are simply weak disadvantages. The anthropomorphism argument, for instance, masquerades as a "critique" because the argument has link, threshold and uniqueness problems of such a magnitude so as to make its usefulness as a disadvantage questionable. Judges who accept such arguments as questions of procedural importance unreasonably expand the burdens imposed on affirmative teams and legitimize a genre of argument with dubious theoretical foundations.

The second broad concern regarding standards centers around the appropriate role of standards argumentation in resolving topicality debates. Many arguments commonly posed as standards are not, in fact, relevant factors for a judge to consider when evaluating definitions. Debatability, prior notice, reasonability and similar arguments are frequently irrelevant to how a judge interprets a definition. "Reasonability," is often nothing more than an appeal not to vote on topicality, ("C'mon, we're reasonable"). As a standard, "reasonability" means that judicial interpretations of the definitions should embrace "common"

understanding of the wording involved.[7]

In many cases, affirmative appeals to reasonability, if treated as a standard rather than as a blind assertion not to vote on topicality, actually work against the affirmative cause. The question of reasonability is not whether the affirmative interpretation strikes a judge as "reasonable," but rather, whether the approach would strike an "ordinary person" as reasonable.

The same observation could be raised regarding most of what passes as standards debate. The claims are frequently circular and presented with little or no rationale. The nature of standards debates would be drastically improved if judges refused to consider assertions as arguments absent an explicit application of the "standard" to the opposing interpretation.

Evaluating Topicality in Non-Policy Forums:

The most essential step that could be taken to improve the quality of topicality argumentation would be to pay more attention to the way that CEDA propositions are worded. The CEDA community could resolve the theoretical ambiguity that surrounds the activity by offering distinct choices in propositional form and wording. "Quasi-policy" propositions encourage the worst tendencies of value and policy debate. If the community wants to debate a policy

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[7] Robert Covington, Cases and Materials for a Course on Legal Methods, (Mineola, NY: Foundation Press, 1969), 269. Black's Law defines the "Reasonable Man Standard," as "The standard which one must observe to avoid liability for negligence is the standard of the reasonable man, under all of the circumstances, including the foreseeability of harm to one such as the plaintiff," IN: Black's Law Dictionary, op. cit., 1138.

proposition, then resolutions offering a choice of explicitly value-oriented and explicitly policy-oriented approaches should be offered.

Beyond affording clear choices, more attention needs to be paid to the exact wording of propositions. Last spring's topic again serves as an excellent example of all the difficulties that one faces when propositions are poorly worded. Neither a true policy proposition, nor an explicit question of value, the proposition lurked in the shadows that separate those two realms. While embracing an interesting problem area, the literal wording of the topic was disastrous in terms of establishing boundaries between affirmative and negative ground and guiding research preparation.

At face value, the resolution posed a tension between two concepts where no tension existed. UN implementation of the UDHR **is premised upon** rather than **competes with** state sovereignty. Anatoly Movchan, a Soviet Political Scientist and UN Human Rights Committee-Member observed:

> The UN's most important documents concerning human rights (the Universal Declaration on Human Rights, the International Covenant on Human Rights, etc.) are firmly based on the principle that finding effective means to protect human rights and effecting such protection **are entirely internal affairs of each State.**[8]

B. G. Rancheran, of the UN Center for Human Rights, argued that "International co-operation and assistance must be based on the

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[8] Anatoly Movchan, Human Rights and International Relations, (Moscow, RUSSIA: Progress Press, 1988), 33.

sovereignty of each state."[9] Robertson and Morallis went further, claiming that:

> Even when there are systems of international control, as in in the two UN Covenants of 1966, the organans of control may make only general recommendations. UN bodies have no right to make concrete recommendations on specific measures to be taken to implement particular human rights and freedoms. The implementation of such measures is the internal affair of member states. **International control over the activity of states in securing human rights and freedoms must, according to international human rights protocols, be exercised with strict observance of their sovereignty and non-interference in their internal affairs.**[10]

In fact, the language of the Universal Declaration and the Human Rights Protocols explicitly stated that recognition of sovereignty was assumed as an integral condition of the enforcement machinery, and furthermore, defined "implementation" as voluntary adherence and adoption of the protocols by member states.

According to field sources, "UN implementation of the UDHR," amounted to voluntary signing of the documents by member states and was wholly compatible with, if not dependent upon, recognition of state sovereignty. Did the framers desire for affirmatives to **violate the fundamental assumptions of the UN** in order to place these concepts in tension? If so, then why tie affirmatives to the UDHR? To do so forced affirmatives to ignore a binding legal document in order to defend it. (Similar to requiring affirmatives to secure the fulfillment of constitutional rights by empowering

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[9] B. G. Ranchran, Human Rights, (New York, NY: Routeledge, 1988), 124.

[10] A. H. Robertson & J. G. Morallis, Human Rights in The World, (New York, NY: Manchester University Press, 1989), 10.

the President or Congress with the ability to adjudicate appellate cases).

Beyond the false tension implied by the resolution, the wording ignored the structure of the United Nations. The UN Human Rights Commission is the solitary arbiter of international human rights protocols. The New York Times described the working of the Human Rights Commission as follows:

> The Commission meets each year to hear charges against countries accused of violating human rights covenants. **Its only power** is to shame Governments into changing their ways by adopting critical resolutions and sending special envoys to investigate abuses.[11]

The General Assembly of the United Nations is a committee of the whole, and is empowered to adjudicate matters brought before it, as well as to suggest measures to the Security Council. **Only the Security Council is empowered with the ability to undertake hostile actions against member states**, and only then, upon proof that "a serious threat to world peace" would arise from a failure to act. Neither the General Assembly nor the Security Council are empowered to act under the auspices of human rights protocols or for the purposes of "implementing" human rights agreements.[12] As L. J McFarlane explained:

> Yet gross and widespread violations of even the most elementary rights continues even in states which are themselves party to the Conventions and Declarations. ...**there is no way that an international body like the**

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[11] The New York Times, "Investigating Human Rights Abuses," March 6, 1992, A-3.

[12] Igor Blishenko, International Human Rights Law, (Moscow, RUSSIA: Progress Press, 1989), 84.

> **UN, based as it is on the principle of sovereign equality of all of its Members, and non-intervention in matters essentially within the domestic jurisdiction of any state could require a state to implement those human rights obligations which it had voluntarily assumed.**[13]

Did the topic intend to mix jurisdictional responsibilities, and require the equivalent of judicial action by executive and legislative bodies? Did the framers intentionally wish to require policymaking action by an international body charged with no authority to undertake such actions? Given the fact that "implementation" is expressly referred to in the legislative history of the Covenants as a voluntary action of the states that are party to the protocols, did the framers seek an alternative meaning of the term (IE: secure the means to bring about the enforcement of, etc), or were they really attempting to focus the debate upon a literal question of historical fact? (The documents had, literally "been implemented" when states voluntarily signed them. Most affirmative case areas dealt with cases in which "implementation" had already occurred. The United States, for example, is the most glaring example of the failure to "implement" the human rights covenants by virtue of its refusal to sign the agreements).

There were a host of other difficulties involved in last spring's topic wording. Most of the cases affirmatives ran required action rather than voluntary agreement, most ignored the distinct lines of responsibility within the structure of the UN (requiring

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[13] L. J. McFarlane, The Theory and Practice of Human Rights, (New York, NY: Pergaman, 1985), 152.

the Security Council to "implement" human rights protocols when it is prohibited from doing so as a matter of international law), and most pre-supposed a non-existing tension between sovereignty and UN implementation of the UDHR.

Many affirmatives who sidestepped these difficulties fell into the sovereignty-trap (another huge body of literature), and failed to demonstrate that the suggested "implementation" was posed against sovereignty, rather than in favor of restoring the sovereignty of the legitimate state. In Bosnia, for example, any intervention, blockade-lifting, bombing and so forth, that was designed to "save Bosnia" or that aimed at restoring the territorial integrity of the Bosnian Government seated at the UN was an action **designed to increase state sovereignty**, rather than a human rights "implementation" that was more important than state sovereignty.[14]

The definition of state sovereignty under UN organizing principles means that by definition, sovereignty cannot be implicated in conflicts such as Bosnia. Serbia, though sovereign, has been condemned by the Security Council as a "belligerent." Bosnia, Croatia, and Montenegro, while non-beligerants, do not

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[14] American Jurisprudence observed, "a more complete and exhausting definition of a "sovereign state," as that term is used in International Law, is, "a people permanently occupying a fixed territory, bound together by common laws, habits and customs into one body politic through the medium of an organized government..." (St. Paul, Minnesota, West Publishing Company), 2nd Ed., Vol. 45, 1958 to Present. UN Organizing Documents contain a laundry list of characteristics of "sovereign states." The list specifically excludes states experiencing "anarchy," "beligerants" or states involved in wars un-related to self-defense, and so forth.

"exercise free control over their territory," and hence fall outside the definition of sovereign states.[15]

My purpose in this digression is not to "prove" that many common case areas last spring were non-topical, but rather to suggest that the resolution was so hopelessly miss-worded that a coherent interpretation of resolutional meaning was difficult if not impossible. Last spring's proposition was broken. The more one conducted field-specific research into the terms used in the resolution, the more broken it became. In a nutshell, the topic posed the timeless question, "Resolved: That an orange is better than a pitchfork," without also telling the audience if they were going to be eating or bailing hay.

I'm not trying to blame those responsible for wording the proposition -- in fact, I share as much of the blame myself because I didn't try to define the words in the resolution until after I had voted for it. Herein lies the problem. Everyone seemed to want to debate within the general problem area, and most actually ended up debating something similar to, "Resolved: That protecting human rights is more desirable than not protecting human rights." The topic that was actually debated, obviously, bore little resemblance to that which was proposed and adopted. People simply decided to prove human rights were good, and went from there.

I would rather have debated the general notion of the desirability of human rights, but the topic as worded was not only

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[15] An example of the voluminous arguments of this sort is presented by Gerald Helman, Foreign Policy, Winter 1992-93, 9.

not useful in organizing research toward that end, it needlessly complicated the task and blurred the distinctions between affirmatives and negatives. The best thing that could be done to improve the nature of topicality debates in CEDA debate would be to **thoroughly study the field contextual meanings of propositional phrases prior to submitting them to a vote**. Absent a more focused approach prior to the voting process, there is no guarantee that similar problems will not arise in the future.